

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

OWNERS INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	Consolidated Case
v.)	No. 4:11-CV-782 CAS
)	
BETTY LU HUGHES,)	
)	
Defendant.)	
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BETTY LU HUGHES,)	
)	
Plaintiff,)	
)	
v.)	Associated Case
)	No. 4:11-CV-979 CAS
AUTO-OWNERS INSURANCE)	
COMPANY,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on defendant/consolidated plaintiff Betty Lu Hughes’ (“Hughes”) motion to dismiss, or alternatively, to stay the declaratory judgment action. Plaintiff/consolidated defendant Owners Insurance Company (“Owners”) opposes the motion. For the following reasons, the Court will deny Hughes’ motion to dismiss or stay the declaratory judgment action.

On May 3, 2011, Owners filed its Complaint for Declaratory Judgment against Hughes in this Court, and was assigned Case No. 4:11-CV-782 CAS (“declaratory judgment action”). On May 20, 2011, Hughes filed a Petition for Breach of Contract against Owners in the Circuit Court for the City

of St. Louis, Missouri (“breach of contract action”). On May 31, 2011, Owners removed the breach of contract action from state court to this Court, and the case was assigned Case No. 4:11-CV-979 CAS. Shortly after the breach of contract action was removed, plaintiff filed a motion to remand the action back to state court. On June 30, 2011, the Court denied Hughes’ motion to remand the case. Shortly thereafter, the Court granted Owners’ motion to consolidate the declaratory judgment action and the breach of contract action, resulting in this consolidated case.

Although it would seem all the preliminary matters regarding case initiation and jurisdiction have now been resolved, one remains pending—the instant motion to dismiss filed by Hughes. During the time in which the declaratory judgment action was pending in this Court and the breach of contract action was pending in state court, Hughes filed the instant motion to dismiss the declaratory judgment action. Hughes argued that this Court should dismiss Owners’ declaratory judgment action because the state court action was pending that would dispose of all issues.¹ This motion to dismiss was rendered moot, however, when Owners removed the breach of contract action to this Court. Hughes cannot argue that this Court should stay the declaratory judgment action pending resolution of the state court breach of contract action when both cases are now properly consolidated before this Court.

Accordingly,

¹Hughes also argued the federal court lacks diversity jurisdiction over the breach of contract action, but this issue was resolved in the Court’s Order denying plaintiff’s motion to remand the breach of contract action. See Hughes v. Auto-Owners Ins. Co., 4:11-CV-979 CAS (Doc. 12).

IT IS HEREBY ORDERED that defendant/consolidated plaintiff Betty Lu Hughes' motion to dismiss or alternatively to stay declaratory judgment action is **DENIED**. [Doc. 7]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 26th day of August, 2011.